

AMENDED IN ASSEMBLY AUGUST 20, 2012

AMENDED IN ASSEMBLY JUNE 21, 2012

AMENDED IN SENATE MAY 29, 2012

AMENDED IN SENATE APRIL 9, 2012

AMENDED IN SENATE MARCH 29, 2012

AMENDED IN SENATE MARCH 12, 2012

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**SENATE BILL**

**No. 1002**

**Introduced by Senator Yee**

February 6, 2012

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An act to amend Section 6253.9 of, and to add Section 6253.91 to, the Government Code, relating to public records.

LEGISLATIVE COUNSEL'S DIGEST

SB 1002, as amended, Yee. Public records: electronic format.

(1) The California Public Records Act requires state and local agencies to make their records available for public inspection and, upon request of a person, to provide a copy of a public record unless the record is exempt from disclosure. The act requires an agency that has information that constitutes an identifiable public record not otherwise exempt from disclosure that is in an electronic format to make that information available in an electronic format when requested by a person. The act requires the agency to make the information available in an electronic format in which it holds the information.

This bill would ~~authorize an agency, upon request, to provide a copy of an electronic record in a format in which the text in the electronic record is searchable by commonly used software. The bill would require~~

~~the requester to bear the cost of converting the electronic record into a searchable format make technical, nonsubstantive changes to these provisions.~~

(2) Existing law requires certain state and local agencies to make specified data or documents available to the public by various methods, including on the Internet.

~~This bill would require that in certain circumstances the data or document be made available to the public in an open format, as defined. The requirement would not apply if the state or local agency does not maintain the data or document in an open format the State Chief Information Officer to conduct a study to determine the feasibility of providing electronic records in an open format, as specified, and to provide a copy of the study to the chairs of specified Senate and Assembly committees by January 1, 2014.~~

~~By imposing new duties on local agencies, this bill would impose a state-mandated local program.~~

~~(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: *yes-no*.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 6253.9 of the Government Code is
- 2 amended to read:
- 3 6253.9. (a) Unless otherwise prohibited by law, an agency
- 4 that has information that constitutes an identifiable public record
- 5 not exempt from disclosure pursuant to this chapter that is in an
- 6 electronic format shall make that information available in an
- 7 electronic format when requested by a person and, when applicable,
- 8 shall comply with the following:
- 9 (1) The agency shall make the information available in an
- 10 electronic format in which it holds the information.
- 11 (2) Each agency shall provide a copy of an electronic record in
- 12 the format requested if the requested format is one that has been

1 used by the agency to create copies for its own use or for provision  
2 to other agencies. The cost of duplication shall be limited to the  
3 direct cost of producing a copy of a record in an electronic format.

4 (b) Notwithstanding paragraph (2) of subdivision (a), the  
5 requester shall bear the cost of producing a copy of the record,  
6 including the cost to construct a record, and the cost of  
7 programming and computer services necessary to produce a copy  
8 of the record when either of the following applies:

9 (1) In order to comply with subdivision (a), the public agency  
10 would be required to produce a copy of an electronic record and  
11 the record is one that is produced only at otherwise regularly  
12 scheduled intervals.

13 (2) The request would require data compilation, extraction, or  
14 programming to produce the record.

15 (c) This section shall not be construed to require the public  
16 agency to reconstruct a record in an electronic format if the agency  
17 no longer has the record available in an electronic format.

18 (d) If the request is for information in other than electronic  
19 format, and the information also is in electronic format, the agency  
20 may inform the requester that the information is available in  
21 electronic format.

22 ~~(e) Upon request, an agency may provide a copy of an electronic~~  
23 ~~record in an open format as defined in Section 6253.91 of the~~  
24 ~~Government Code if the agency does not already have the~~  
25 ~~electronic record in an open format. The requester shall bear the~~  
26 ~~cost of converting the electronic record into an open format,~~  
27 ~~including the cost of programming and computer services necessary~~  
28 ~~to produce the electronic record.~~

29 ~~(f)~~

30 (e) This section shall not be construed to permit an agency to  
31 make information available only in an electronic format.

32 ~~(g)~~

33 (f) This section shall not be construed to require the public  
34 agency to release an electronic record in the electronic form in  
35 which it is held by the agency if its release would jeopardize or  
36 compromise the security or integrity of the original record or of  
37 any proprietary software in which it is maintained.

38 ~~(h)~~

(g) This section shall not be construed to permit public access to records held by an agency to which access is otherwise restricted by statute.

SEC. 2. ~~Section 6253.91 is added to the Government Code, to read:~~

~~6253.91. (a) Whenever a state or local agency is required by law to make electronic data or an electronic document available to the public, and the agency has software, hardware, or services that allows it to retain the data or document in an open format, it shall provide the data or document in an open format.~~

~~(b) (1) Whenever a state or local agency is required by law to make data or a document available on the Internet, and the agency has software, hardware, or services that allows it to retain the data or document in an open format, it shall post the data or document in an open format.~~

~~(2) This subdivision shall not apply to data or documents posted on the Internet before January 1, 2013.~~

~~(3) This subdivision shall not be construed to require an agency to repost existing data or documents currently posted and available on the Internet.~~

~~(c) For purposes of this section, “open format” means all of the following:~~

~~(1) The data or document can be located, downloaded, and read by a requester or a member of the public using publicly accessible software or public Internet applications that are available without any purchase price or paid subscription fees, or both.~~

~~(2) The data or the text in the document is machine readable and can be searched, indexed, organized, categorized, and is otherwise automatically processable.~~

~~(3) The data or document provides data granularity, definitions, and structured formats in the original quality available to the state or local agency.~~

~~(d) This section shall not be construed to require a state or local agency to do either of the following:~~

~~(1) Convert data or a document into an open format.~~

~~(2) Update its software or hardware.~~

~~(e) This section shall not be construed to require a public agency to release data or a document in an open format if its release would jeopardize or compromise the security or integrity of the original record or of any proprietary software in which it is maintained.~~

1 ~~(f) This section shall not be construed to permit public access~~  
2 ~~to records held by an agency to which access is otherwise restricted~~  
3 ~~by law.~~

4 *SEC. 2. (a) The State Chief Information Officer shall conduct*  
5 *a study to determine the feasibility of providing electronic records*  
6 *in an open format. The study shall include, but not be limited to,*  
7 *all of the following:*

8 *(1) Determining what types of records are appropriate to be*  
9 *provided in an open format.*

10 *(2) Developing the proper definition of “open format.”*

11 *(3) Estimating the cost to both state and local governments of*  
12 *providing information in an open format.*

13 *(b) The State Chief Information Officer shall provide a copy of*  
14 *the study to the chairs of the Senate and Assembly Committee on*  
15 *Governmental Organization and Appropriations and the Assembly*  
16 *Committee on Local Government and the Senate Committee on*  
17 *Governance and Finance by January 1, 2014.*

18 *(c) For purposes of this section, “open format” may include*  
19 *any of the following:*

20 *(1) The format can be retrieved, downloaded, indexed, and*  
21 *searched by commonly used Internet search applications.*

22 *(2) The format is platform independent, machine readable, and*  
23 *made available to the public without restrictions that would impede*  
24 *the reuse of its information.*

25 *(3) If applicable, the format retains data definitions, structure,*  
26 *and is as granular as possible.*

27 ~~SEC. 3. If the Commission on State Mandates determines that~~  
28 ~~this act contains costs mandated by the state, reimbursement to~~  
29 ~~local agencies and school districts for those costs shall be made~~  
30 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~  
31 ~~4 of Title 2 of the Government Code.~~